



# COUNCIL MINUTES

July 6, 2000

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on July 6, 2000, at 7:30 a.m.

## COUNCIL PRESENT

Mayor Keno Hawker  
Jim Davidson  
Bill Jaffa  
Dennis Kavanaugh  
Pat Pomeroy  
Claudia Walters  
Mike Whalen

## COUNCIL ABSENT

None

## OFFICERS PRESENT

Mike Hutchinson  
Joe Padilla (Acting)

1. Review items on the agenda for the July 10, 2000 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff with no formal action taken. There was specific discussion relative to the following items:

5. Consider the following contracts:

- \*b. Election Printing as requested by the City Clerk's Office.

The Purchasing Division recommends accepting the low bid by Fidelity Press West for estimated purchases not to exceed \$10,500.00.

Mayor Hawker posed questions to staff regarding printing expenses and costs associated with pro and with con arguments. Staff indicated their intention to provide additional information.

- j. Three crew trucks for the Utilities Department. Two vehicles are replacements and one is an addition to the fleet.

The Purchasing Division recommends accepting the low bid by 1-10 International (base bid) at \$186,367.35 including sales tax and extended warranties. **(CONTINUED FROM THE JUNE 26, 2000 COUNCIL MEETING.)**

In response to a question from Councilmember Walters, Purchasing Director Sharon Seekins advised that based on additional information brought forward by the bid protester and clarification by the manufacturer, staff is now in support of the low bid and the protest has been withdrawn.

Mayor Hawker thanked Ms. Seekins for her efforts in this matter.

Mayor Hawker stated that this item will be added to the consent agenda.

- \*k. Sossaman Road Sewer Line and McDowell Road Sewer and Gas Line. City of Mesa Project No. 00-67.

This project will install a new sewer line on Sossaman Road from Hermosa Vista Drive to McDowell Road and along McDowell Road from Sossaman Road to 80<sup>th</sup> Street.

Mayor Hawker and Councilmember Jaffa indicated that they had potential conflicts of interest in connection with the matter now under discussion which they wanted reported in the minutes of the meeting, and because of such conflicts of interest, they would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Hawker stated that this item will remain off the consent agenda.

6. Introduction of the following ordinances and setting July 24, 2000 as the date of public hearing on these ordinances:

- \*e. Z00-51 The northeast corner of Ellsworth Road and Germann Road. Rezone from R1-43 to P.E.P. and M-1 (152± acres.) This case involves the establishment of industrial zoning to be consistent with the General Plan.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted reported in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Hawker stated that this item will be removed from the consent agenda.

8. Consider the following resolutions:

- \*f. GP00-1 The southwest corner of Ellsworth Road and Guadalupe Road. Change from High Density Residential (15+ du/ac) to Medium High Density Residential (5 to 15 du/ac) 161± acres. James Nesbitt, owner; Sean Lake, applicant.

In response to a request from Councilmember Jaffa, Planning Director Frank Mizner presented an overview of the case and staff's recommendations relative to setbacks and density levels.

Mayor Hawker stated that this item will be removed from the consent agenda.

- \*g. Vacating a portion of an alley in the 2000 block of East Alder Circle.

The neighborhood is requesting that this portion of the alley be closed.

Vice Mayor Davidson indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted reported in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Hawker stated this item will be removed from the consent agenda.

- 9. Consider the following ordinances:

- b. Amending Sections 11-13-2 and 11-18-9 specifying mandatory review of churches by the Design Review Board. **(CONTINUED FROM THE JUNE 5, 2000 COUNCIL MEETING.)**

Councilmember Jaffa requested that staff present an update at a future Study Session relative to the construction status of The Living Word Bible Church located at Brown Road and Val Vista Road.

- d. A00-3 Annexing the areas west of Meridian Road to the Mountain Road Alignment and North of Adobe Road to Brown Road. **(CONTINUED FROM THE JUNE 26, 2000 COUNCIL MEETING.)**

In response to a question from Councilmember Jaffa, Mr. Mizner provided a brief synopsis of the above-agenda item with regard to zoning issues. Mr. Mizner advised that the applicant has made a commitment to preserve the natural desert terrain, to provide a buffer for the neighbors, and to adhere to the Native Plant Preservation Ordinance. Mr. Mizner added that staff supports the annexation and would recommend approval by the Council. Mr. Mizner added that the available lot sizes will not accommodate the building envelope concept.

Councilmember Jaffa requested additional input from staff relative to the percentage of the site which constitutes a wash, the densities that have developed around it, and how much of the surrounding area contains one-acre lots.

Vice Mayor Davidson expressed the opinion that the building envelope concept could be accomplished if the developer were to decrease density levels. Vice Mayor Davidson further stated that although he appreciates the efforts of the developer, the City is losing an opportunity to experience innovative, creative design.

Discussion ensued relative to annexation and zoning with regard to this agenda item.

Mayor Hawker expressed the opinion that the Planning and Zoning Board and the Council are being placed in a "non-compromise" position if annexation is granted and the zoning case has not been thoroughly reviewed. Mayor Hawker requested additional discussion of this agenda item at the next Study Session.

10. Discuss and consider the following recommendations from the Finance Committee.
  - a. Recommend staff's proposal that would increase cemetery fees to approximately 10% below the Valley's market average. Alternatively, consider a proposal to increase cemetery fees to approximately 5% below the Valley's market average. Alternatively, consider other proposals to adjust cemetery fees. **(CONTINUED FROM THE JUNE 26, 2000 COUNCIL MEETING.)**

In response to a question from Councilmember Pomeroy, Parks and Recreation Administrator Mark Woodward and Assistant to the City Manager Bryan Raines provided a breakdown of staff's proposed recommendations.

Mayor Hawker indicated that the purpose of this agenda item is the establishment of a fund for perpetual maintenance of the cemetery. Mayor Hawker said he is in favor of the City being financially prudent and will be voting for setting the fees at 5% below the Valley's market average.

12. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding Ordinances:
  - \*b. Z00-22 The 8000-9100 Blocks of East McKellips (both sides – between Hermosa Vista Drive and McLellan Roads.) Rezone from R1-35-DMP (conceptual residential, office and commercial) to R1-35 (760± acres). This case involves the modification to conceptual approval of residential densities and land uses. State of Arizona, owner; represented by: Arizona State Land Department; City of Mesa, applicant. **(CONTINUED FROM THE MAY 1, 2000 CITY COUNCIL MEETING. THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE SEPTEMBER 11, 2000 COUNCIL MEETING.)**

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted reported in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Hawker stated this item will be removed from the consent agenda.

- \*d. Z00-28 2460 East Main. Rezone from C-2 & C-3 to R-4 (2± acres). This case involves the expansion of an existing mobile home park. Melvin Meister, owner; Greg Allen, applicant.

Mayor Hawker stated that at the request of Councilmember Walters, this item will be removed from the consent agenda.

In response to a question from Councilmember Pomeroy, Mr. Mizner advised that in an effort to update the mobile home park, the applicant will implement enhancements to the site including an infill property clean-up, additional landscaping, screen walls, the relocation of an entryway and the improvement of the Main Street frontage area.

- \*h. Z00-39 The southwest corner of Meridian Road and Mesquite Road (1/2 mile north of Warner). Rezone from R1-43 to R1-7 (78.4± acres). This case involves the development of a single residence subdivision. Steffey Family Limited Partnership & Goettl Family Limited Partnership, owner; Metropolitan Land Co., applicant.

In response to a question from Councilmember Jaffa, Mr. Mizner provided an overview of this case and its similarities to the Zander case. Mr. Mizner noted that the applicant has agreed to annexation and is requesting that he be provided utility services by the City of Mesa.

Councilmember Jaffa stated that he would like to review the plat plan for this agenda item.

- j. Z00-42 The southeast corner of Baseline and Rosyln. Site Plan Modification (3.72 acres). This case involves development of a tire store and brake shop. Joseph Cattaneo, owner/applicant.

Mr. Mizner clarified that due to an increase in the size of the business, additional vehicular traffic and noise impacts inherent with a tire store and brake shop, staff is not recommending approval of this case.

- \*n. Z00-46 The northwest corner of Elliot Road and Meridian Road. Modification of an approval DMP (160± acres). This case involves variation to standard residential setbacks. Continental Homes, Inc., owner, represented by: David Maguire; Arizona Land Design, applicant, represented by: Christine Taratsas.

In response to a question from Councilmember Jaffa, Mr. Mizner provided Council with a brief overview of the agenda item and staff's recommendations for approval.

Councilmember Jaffa requested that staff provide Council with copies of the brochures depicting the various model homes designs that are currently offered to potential homebuyers.

Councilmember Davidson concurred with staff's recommendation.

2. Discuss and consider adding to the Council meeting agenda a draft ordinance that would allow forced air and other advertising balloons for a three-day period in conjunction with the "grand opening" of a new business.

Mr. Mizner and Code Compliance Director Bill Petrie presented a brief overview of this agenda item. Mr. Mizner noted that at a previous Study Session, the Council directed staff to amend the Sign Ordinance to allow forced air advertising balloons on a limited basis. Mr. Mizner advised that such balloons are currently permitted only during a "Special Event," which is limited to three days, and said that the business must procure a "Special Event License" in order to display the balloon. Mr. Mizner stated that the proposed ordinance would also allow for the display of forced air balloons at "Grand Openings." Mr. Mizner informed the Council that staff is not in support of the ordinance based on safety concerns and their opinion is that the balloons would create "visual clutter" within the City of Mesa.

In response to a question from Mayor Hawker, Mr. Petrie said that as a condition of the Special Event Permit, the Council could impose specific criteria with regard to setbacks and height

restrictions. Mr. Petrie also stated that in order to receive such a permit, the business owner should be required to provide a site plan to ensure that the forced air balloon would not be located near a right-of-way.

In response to a question from Councilmember Walters, Mr. Mizner advised that special events are defined as unique events and include Oktoberfest, RV sales at a mall or carnivals that require the issuance of a permit by the City and the consideration of a site plan, but are not sales by an ongoing business.

Discussion ensued relative to the fact that Sign Ordinance enforcement with regard to the forced air balloons would be difficult due to the limited number of staff available to police the entire City of Mesa.

Councilmember Kavanaugh expressed the opinion that he does not support the proposed ordinance and agreed that forced air balloons add visual clutter and may create liability issues for the City. Councilmember Kavanaugh stated further that he does not agree with the existing ordinance which permits the balloons at Special Events.

Councilmember Pomeroy commented that if the City permits a business to advertise with a forced air balloon for a Special Event, then such balloons should be allowed at a Grand Opening as well on a three-day basis and with the established provisions.

Councilmember Whalen indicated he is not in support of the proposed ordinance.

Vice Mayor Davidson concurred with the opinions of Councilmembers Kavanaugh and Whalen and added that with the increased responsibilities of the Code Compliance Department relative to enforcement of the new Housing Code, he is concerned about the depletion of resources. Vice Mayor Davidson requested additional input relative to whether forced air balloons should be permitted in the City of Mesa under any circumstances.

Councilmember Jaffa said that although he is in favor of assisting new businesses in their efforts, he has concerns relative to the definition of "new business" as contained in the proposed ordinance.

Mayor Hawker stated it is the consensus of the Council not to proceed with the proposed ordinance.

Mayor Hawker expressed appreciation to staff for their input.

3. Further discussion and consideration of issues relating to churches and schools, primarily locational restrictions and Design Review Board jurisdiction.

Mr. Mizner provided a brief synopsis of this agenda item. Mr. Mizner advised that at the direction of the Council, staff has drafted an ordinance that would require all new churches to be subject to the Design Review Board process. Mr. Mizner stated that the Planning and Zoning Board voted 5-1 not to support this ordinance.

Discussion ensued relative to the fact that the Mesa Public School District and the Gilbert Public School District do not support a change in current regulations for the following reasons: 1. The

districts anticipate future construction of a limited number of schools; 2. The districts must petition the State of Arizona with regard to capital funding for new construction; 3. The districts are subject to strict construction timetables. Mr. Mizner added that due to the fact school districts are not required to apply for building permits, enforcement of the Design Review Board ordinance would be difficult.

In response to a question from Mayor Hawker with regard to the controversial nature of the Barbara Bush Elementary School and its location, Mr. Mizner clarified that the school district did not consult with the City prior to purchasing the site and noted that staff subsequently expressed their concerns relative to the school's location in an industrial park.

Mayor Hawker recommended that the Council discuss school and church issues as two separate entities.

Councilmember Kavanaugh expressed the opinion that he is not in support of Design Review Board jurisdiction with regard to public schools, but noted that charter schools could create an adverse impact relative to economic development related issues. Councilmember Kavanaugh stated the opinion that a Council use permit would be a more acceptable option than a locational ban. Councilmember Kavanaugh also stressed the importance of input from residential and commercial entities as well as City staff and advisory boards.

Councilmember Walters stated that she would be in favor of requiring a Council use permit for school construction in industrial areas, but would be opposed to requiring Design Review Board jurisdiction relative to schools.

Councilmember Pomeroy concurred with the comments of Councilmember Walters.

Councilmember Jaffa expressed the opinion that with regard to charter schools, he would be in support of Council use permits and requiring Design Review Board review.

Vice Mayor Davidson concurred with the option of Council use permits, but was not in favor of Design Review Board jurisdiction relative to schools. Vice Mayor Davidson expressed concern that Council use permits may hinder the development and growth of charter schools.

Councilmember Whalen spoke in support of the issuance of Council use permits, but expressed concern relative to the incorporation of temporary buildings on existing school sites.

In response to a question from Councilmember Whalen, Mr. Mizner advised that charter schools are required to obtain City building permits, but are not required to appear before the Design Review Board.

Councilmember Kavanaugh stated that relative to the proposed Design Review Board jurisdiction with regard to churches, he is in support of the design ordinance currently in effect. Councilmember Kavanaugh said that with the proliferation of "mega churches," the exterior appearance of a structure can positively or negatively impact neighborhoods and that it is imperative that citizens provide input with respect to those issues. Councilmember Kavanaugh added that relative to locational issues, he has concerns from a legal perspective.

Councilmember Jaffa concurred with the opinions of Councilmember Kavanaugh and indicated his desire to explore the design review process further.

Discussion ensued relative to separation of church and state issues.

Vice Mayor Davidson expressed the opinion that it is inappropriate for the City to regulate the location of churches and also that he is not in favor of requiring the Design Review Board process for churches in the community.

Councilmember Pomeroy concurred with the opinions of Vice Mayor Davidson.

Councilmember Walters expressed interest in exploring the possibility of issuing a Council use permit in industrial zoned areas.

Councilmember Whalen concurred with the opinions of Councilmember Walters.

Mayor Hawker declared that the Council does not have a consensus relative to the Design Review Board jurisdiction item and added that he does not support the proposal.

Mayor Hawker thanked staff for their presentation.

4. Discuss and consider a proposed residential development located near the intersection of Crismon and McKellips, Whisper Mountain.

Mr. Mizner and Jason Morris, 3200 North Central Avenue, Suite 1000, Phoenix, an attorney representing the applicant, addressed the Council relative to this agenda item. Mr. Mizner stated that the subject property was initially discussed when the Council reviewed an adjacent parcel to the north entitled Marble Mountain. Mr. Mizner advised that the proposed site includes a large existing mountain, scarred desert, a City water facility on the flanks of the mountain and existing pad sites. Mr. Mizner noted that there are only 35 acres of developable terrain plus 12 acres of mountain lots.

Mr. Mizner noted that staff and Mr. Morris are seeking direction from the Council with regard to whether the applicant should receive credit for property that is undevelopable which would include washes, power lines, private streets, retention areas and the mountainside. Mr. Mizner added that the applicant has committed that the property will not be mass graded, that the building envelope concept will be implemented, that the project will remain compatible with surrounding development, and that the developer will adhere to the conditions contained in the Native Plant Preservation Ordinance.

Discussion ensued relative to proposed lot sizes and building envelope concepts.

Councilmember Kavanaugh expressed his support of the proposed development and indicated that it presents a unique challenge and an exciting opportunity for the applicant and the City in terms of recreational use. Councilmember Kavanaugh added that it is imperative to ensure public access to the area.

Councilmember Jaffa concurred with the opinions of Councilmember Kavanaugh. Councilmember Jaffa stated that Maricopa County has already granted building permits on the mountain slope and questioned what concessions should be given to the applicant in such cases.

Councilmember Jaffa expressed the opinion that cluster development would be a means by which to compromise and the City would receive 54 acres for public use.

Councilmember Pomeroy spoke in support of the applicant's proposed tradeoff to retain the mountain for public use and increase density levels on the portion of the property that is level and buildable.

Vice Mayor Davidson stated that he is in favor of the applicant's proposal and noted that the geological features of the proposed development site will increase the value of the homes.

Discussion ensued relative to water service, the water tower, re-vegetation of the pad sites.

In response to a question from Councilmember Walters, Mr. Morris clarified that there will be a no-build easement and a pedestrian access easement recorded on the property to prevent residences and structures from being built on the approved pad sites that are re-vegetated, and also that the easement will be in perpetuity and will run to the benefit of the City of Mesa which will provide a measure of city control in that area.

Mayor Hawker commented that it is the consensus of the Council that the property be annexed into the City of Mesa and that the 63-lot concept, which constitutes a compromise and increases density levels on level land while ensuring that mountain areas remain protected, is acceptable. Mayor Hawker added that questions still remain relative to ensuring public access within a gated community and providing parking for the public.

Discussion ensued relative to public access to the mountain, maintenance of the radio towers, and proposed parking areas to accommodate public parking.

Mayor Hawker thanked Mr. Mizner and Mr. Morris for their presentations.

5. Acknowledge receipt of minutes of various boards and committees.

- a. Crime Prevention Advisory Board meeting held June 21.
- b. Downtown Development Committee meeting held June 15.
- c. Economic Development Advisory Board meeting held May 2.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

6. Hear reports on meetings and/or conferences attended.

Vice Mayor Davidson discussed his attendance at a meeting in California, which focused on collaborative efforts to ensure a continuum of affordable and fair housing within communities. Vice Mayor Davidson stated that Mary Rose Wilcox of the Maricopa County Board of Supervisors will be scheduling a debriefing session and requested that members of the City's Housing Roundtable attend.

7. Scheduling of meetings and general information.

City Manager Mike Hutchinson advised that the meeting schedule is as follows:

Thursday, July 6, 2000, immediately following the Study - General Development Committee Meeting

Friday, July 7, 2000, 8:00 a.m. - City Council Tour of Williams Gateway Airport

Monday, July 10, 2000, 3:30 p.m. - Police Committee Meeting

Monday, July 10, 2000, 5:00 p.m. - Study Session

Monday, July 10, 2000, 5:45 p.m. - City Council Meeting

Wednesday, July 12, 2000, 8:00 a.m. - City Council Tour of Municipal Court and Police Department

Wednesday, July 12, 2000, 6:30 p.m. - Dinner Meeting with Town of Gilbert City Council

Thursday, July 13, 2000, 7:30 a.m. - Study Session

Wednesday, August 2, 2000, TBA, Media Relations

Thursday, September 21, 2000, TBA, Study Session (Goal Setting)

8. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

9. Items from citizens present.

There were no citizens present.

10. Adjournment.

Without objection, the Study Session adjourned at 9:55 a.m.

---

KENO HAWKER, MAYOR

ATTEST:

---

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 6<sup>th</sup> day of July 2000. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2000

---

BARBARA JONES, CITY CLERK